NOTES OF CASES.

LIABILITY OF TENANT TO MAKE REPAIRS INCIDENT TO INJURY OF BUILDING BY FIRE—VA. CODE 1904, SEC. 2455.—It is well settled at common law that where the lessee of premises covenants to leave them in repair he is bound so to do even though the premises are injured or even destroyed by unexpected and unprecedented means and without any default on his part. The rigor of this rule has been in part, at least, abated by sec. 2455, Va. Code 1904, which provides that no covenant on the part of the tenant that he will leave the premises in good repair shall have the effect, if the building thereon be destroyed by fire or otherwise, without fault or negligence on his part, of binding him to erect such building again unless there be other words showing it to be the intent of the parties that he should be so bound. It will be observed that the above provision affects only the *destruction* of the building. In such cases the tenant is not bound to "*erect*" the building. But what about *injury* to the building? Is the tenant in that case obliged to *repair*, although the injury was caused without negligence on his part? It seems that he is, because the statute above referred to is in derogation of the common law and must, therefore, be strictly construed It is really more important to the tenant that he be protected in case of injury to the building than it is for him to be protected in case of destruction. Especially is this true in cities where injuries to buildings by fire are frequent, but where total destruction is very rare. It is believed that tenants, and even members of the bar, do not realize the probable liability of the tenant in such cases. Otherwise, tenants would seek to protect themselves by taking out policies of insurance on the buildings they occupy. In the case of *Richmond Ice Co.* v. *Crystal Ice Co.*, 99 Va. 239 and 103 Va. 465, the history and meaning of the statute is discussed. Virginia and West Virginia cases bearing on the statute will be found digested in note on "Covenants" in Virginia Reports Annotated, 2. Gratt. 171, and in note on "Landlord and Tenant," 2 Rob. 621. But none of the cases have touched upon the question above referred to.

NEGOTIABLE INSTRUMENTS—FORM OF ORDER—VA. CODE 1904, SEC. 2841—A note containing no more of the payee, nor space to insert it, is held, in *Smith* v. *Willing* (Wis.) 68 L. R. A. 940, not to be negotiable by sec. 1 (4) of the N. I. L. sec. 284la, Va. Code 1904. An instrument to be negotiable must be payable to order or bearer, and evidently this would govern the case referred to.

NEGOTIABLE INSTRUMENTS—NONPAYMENT—FAILURE TO NOTIFY INDORSER.—VA. CODE 1904, SEC. 2841A.—A bank which has accepted a check on deposit, with the depositor's indorsement, is held, in *Aebi* v. *Bank of Evansville* (Wis.) 68 L. R. A. 964, to discharge the indorser from liability thereon by failing to notify him of its nonpayment for nearly a month,